

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

WALTER BARTON,)
)
Petitioner,)
)
v.) Case No. 4:20-CV-08001-BCW
)
WARDEN WILLIAM STANGE,)
)
Respondent.)

OPINION AND ORDER

Before the Court is Petitioner Walter Barton's Petition for Habeas Corpus under 28 U.S.C. § 2254 (Doc. #1). Consistent with the instructions of the Court of Appeals for the Eighth Circuit, the petition for habeas relief is denied and dismissed.

In March 2006, Petitioner was found guilty by a jury of the first-degree murder in the Circuit Court of Cass County, Missouri and was sentenced to death. The Missouri Supreme Court affirmed the conviction and sentence on direct appeal a 4-3 margin. (Doc. #1-13) (citing State v. Barton, 240 S.W.3d 693, 711 (Mo. 2007)). The United States Supreme Court denied Barton's petition for writ of certiorari in October 2008, thus completing the direct appeal process. Barton v. Missouri, 555 U.S. 842 (2008).

On June 9, 2015, Petitioner filed a petition for habeas corpus relief in the district court, which was subsequently denied on all grounds. Barton v. Griffith, 4:14-CV-08001-GAF. On December 21, 2018, the Court of Appeals for the Eighth Circuit declined to issue a certificate of appealability with respect to the order denying § 2254 relief and dismissed Barton's appeal. Walter Barton v. Cindy Griffith, 4:14-CV-08001-GAF, Doc. #70. The Eighth Circuit issued its mandate on March 29, 2019. Petitioner's subsequent petition for writ of certiorari to the U.S. Supreme Court was denied on November 18, 2019.

In February 2020, Petitioner's execution date was set for May 19, 2020. On February 3, 2020, Petitioner filed another motion for habeas corpus relief in the Missouri Supreme Court asserting Petitioner is not competent for execution and an actual innocence claim. State ex rel. Barton v. Stange, No. SC98343, slip op. at 1-2 (Mo. Apr. 27, 2020). The habeas petition before the Missouri Supreme Court was denied on April 27, 2020.

One week later, on May 4, 2020, Petitioner filed the instant petition for habeas relief, seeking this Court's review of the Missouri Supreme Court's denial decision under 28 U.S.C. § 2254(d)(1) and (2), and also filed a motion for stay of execution. (Doc. #3).

On May 15, 2020, the Court granted Petitioner's motion for a stay of execution on the basis that it required more time to consider the merits of Petitioner's claims pursuant to 28 U.S.C. § 2251. Respondent appealed the order granting the stay of execution.

On May 17, 2020, the Eighth Circuit entered its opinion vacating the opinion and order issued by this Court on May 15, 2020, vacating the stay of execution, and remanding with instructions that the district court dismiss the habeas petition because Petitioner was not entitled to relief under 28 U.S.C. § 2254. Accordingly, consistent with the Eighth Circuits instructions, it is hereby

ORDERED Petitioner Walter Barton's Petition for Habeas Corpus under 28 U.S.C. § 2254 (Doc. #1) is DENIED AND DISMISSED. It is further

ORDERED the order granting a stay of execution is VACATED AND DENIED.

IT IS SO ORDERED.

DATE: May 18, 2020

/s/ Brian C. Wimes

JUDGE BRIAN C. WIMES

UNITED STATES DISTRICT COURT